

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HORACE CLAIBORNE, SONJIA
MONIQUE BOWLIN, TYSHAWN
WALKER, DEZRAE KAUHANE, WILLIE
SEALS, FREDERICK EPPICH, JEROME
SCHOOLFIELD, KRISTINA TRAVIS,
JEREMY WINKELS, DANIEL
FORRESTER, MARK DAVID GRIFFETH,
DOUGLAS RUSSELL, KENNETH
BURTON, GERALD GENSOLI, and
THOMAS DEPIESSE, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendant.

CIVIL ACTION

No. 2:18-cv-01698-RJC

**DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S CORRECTED
UNOPPOSED MOTION TO DISMISS WITH PREJUDICE CERTAIN OPT-IN
PLAINTIFFS WHO FAILED TO COMPLY WITH THE COURT'S DECEMBER 7, 2021,
DISCOVERY ORDER**

On December 7, 2021, the Court granted Defendant FedEx Ground's unopposed motion to compel compliance with the Court's September 15, 2021, case management order, stating those opt-in Plaintiffs who failed to "provide complete questionnaire responses and complete document productions within 30 days of entry" of the order "may be dismissed with prejudice." (See ECF 321 (Order).) FedEx Ground now moves to dismiss with prejudice certain opt-in Plaintiffs who failed to respond to the questionnaires by the January 6, 2022, deadline.

As described below, this motion as to these 203 individuals is unopposed. However, there are other opt-in Plaintiffs that also did not comply with the Court's discovery orders just referenced. Plaintiffs disagree that the others should be dismissed, so FedEx Ground will be filing a separate opposed motion to address those individuals.

CERTIFICATE OF CONFERRAL

On January 17 and 20, 2022, FedEx Ground's counsel conferred with Plaintiffs' counsel regarding the relief requested herein (as well as a number of other discovery opt-ins subject to the Court's orders compelling full and complete responses). Plaintiffs' counsel agreed not to oppose dismissal of the 203 discovery opt-ins that did not respond at all and that this motion addresses. Plaintiffs' counsel requested that it be noted, however, that Plaintiffs are not opposing the dismissal with prejudice of these 203 individuals "*only* because [they] recognize that the court has already ruled on this issue and that [they] intend to reserve any rights for appeal as to the dismissal of non-responders."

Dated: January 21, 2022

Respectfully submitted,

s/ Jessica G. Scott

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Attorneys for Defendant
FedEx Ground Package System, Inc.

CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on January 21, 2022, I electronically filed the foregoing **DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S UNOPPOSED MOTION TO DISMISS WITH PREJUDICE CERTAIN OPT-IN PLAINTIFFS WHO FAILED TO COMPLY WITH THE COURT'S DECEMBER 7, 2021, DISCOVERY ORDER** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

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s/ Jessica G. Scott
